

the nation. In addition, the outcome of the proceedings to establish rates for unbundled network elements is fully consistent with the Commission's pricing rules, including the TELRIC methodology.<sup>63</sup> As the DTE stated, "the Department finds that it correctly applied the FCC's avoided cost and TELRIC methods."<sup>64</sup> And the DTE only recently reiterated that "the current UNE rates in Massachusetts *are in compliance with the FCC's TELRIC methodology* and related statutory requirements." See Letter from James Connelly, Chairman, Massachusetts DTE, to Kenneth W. Salinger, Esq., Denying AT&T's Petition to Review and Reduce UNE Rates at 3 (July 27, 2000) (App. B, Tab 481) ("Salinger Letter").

Nonetheless, as they did in New York, the long distance incumbents no doubt will try to resurrect here some of the same pricing arguments that already have been soundly rejected by the Massachusetts DTE. As it did in New York, the Commission must reject any such efforts to relitigate those issues here. See New York Order ¶¶ 242-243; AT&T Corp. v. FCC, 220 F.3d at 617.

First, the long distance incumbents presumably will repeat here the same argument they made in New York that the local switching rates set by the Massachusetts DTE are too high. But the basis for their claim — "that the switching inputs are based on the cost of switching upgrades rather than the lower cost of new switches," Salinger Letter at 2 n.1 — is the same argument that

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<sup>63</sup> The Commission's TELRIC pricing rules have been struck down by the Eighth Circuit as contrary to the Act. See Iowa Utils. Bd. v. FCC, 219 F.3d 744 (8th Cir. 2000). Once that court's decision takes effect, TELRIC-based prices will not be required for purposes of the checklist, which merely requires access to interconnection and network elements in accordance with section 252(d)(1). See 47 U.S.C. § 271(c)(1)(B). Nonetheless, in the absence of new rules implementing the Eighth Circuit's decision, the fact that Verizon's prices in Massachusetts comply with the rules previously in effect is sufficient for purposes of the present Application. See New York Order ¶ 30 (holding that the fact that Verizon provided all network elements required by the Commission's then-vacated rules was adequate for checklist purposes).

<sup>64</sup> DTE, Order Granting Bell Atlantic's Motion to Adopt Permanent UNE Rates at 16, No. 98-15 (Mar. 19, 1999) (App. F, Tab 157).

the Commission rejected in the New York proceeding and that the D.C. Circuit upheld as reasonable. See New York Order ¶ 242; AT&T Corp. v. FCC, 220 F.3d at 617 (“The FCC’s decision seems reasonable to us.”). In addition, neither AT&T nor any other party chose to raise this issue in an appeal of the Massachusetts DTE’s order. See Mudge Decl. ¶ 28. As such, they are precluded from raising it here.

Moreover, Verizon recently negotiated and contracted for local switching charges that are substantially below the rates that the Massachusetts DTE has already determined to be TELRIC-compliant, and those same rates are generally available. On July 24, 2000, the DTE approved an amendment to the interconnection agreement between Verizon and Z-Tel that, among other things, provides for a promotional discount of between 30 and 50 percent for local switching usage. See id. ¶¶ 32-33. This discount will be available until the Massachusetts DTE completes its reevaluation of TELRIC rates in 2001, and the amendment specifically provides that the same promotional discounts shall be made available to other carriers operating in Massachusetts. See id. ¶¶ 33-34. Therefore, these promotional below-TELRIC switching rates are available for all carriers that plan to use the UNE-Platform mode of market entry, including AT&T and WorldCom. Yet, much as they love to complain about the issue in regulatory forums, neither AT&T nor WorldCom has elected to take advantage of the substantially lower promotional rates.

Second, the long distance incumbents may again rehash their argument that the DTE made assumptions that were *too forward-looking* when it based its loop rates on all fiber feeder. They are wrong. The DTE found that the technology choices used by Verizon’s model reflected the most efficient forward-looking technologies. See id. ¶ 16. In addition, this is the very same claim on which the Commission refused to overturn the judgment of the New York PSC, and it should do the same for the DTE here. New York Order ¶ 248; AT&T Corp. v. FCC, 220 F.3d at

618-19. In any event, because this is an issue that WorldCom did appeal, its arguments now must be made to the district court.

Third, the incumbents and their allies may repeat the claims they made in New York that Verizon's loop-conditioning charges are overstated. They are flat wrong. As in New York, those rates are undergoing thorough review by the Massachusetts DTE and a decision is expected soon. See Mudge Decl. ¶ 36; New York Order ¶ 250; AT&T Corp. v. FCC, 220 F.3d at 620-21.

**2. Verizon Is Subject to Comprehensive Performance Reporting and Performance Assurance Mechanisms.**

Verizon also is subject to extensive performance reporting requirements that, like the identical requirements in New York, allow competitors and regulators alike to identify and investigate potential problems before they pose a risk to competition. And it also is subject to comprehensive self-executing performance assurance mechanisms that provide still further incentives to provide the best wholesale performance possible.

First, Verizon is subject to performance reporting requirements in Massachusetts that mirror those in place in New York. See Guerard/Canny Decl. ¶¶ 10, 16; New York Order ¶¶ 438-439. In fact, the measurements used in Massachusetts are the same ones that were developed in the New York PSC's collaborative "Carrier-to-Carrier" process. See Guerard/Canny Decl. ¶ 16. The Massachusetts DTE adopted these measures as its own in January of this year. See id. It also ruled that it would adopt "all additions, deletions, or modifications" made to Verizon's performance measurements in New York. See id.; see also DTE Performance Plan Order at 26. As the Commission has found, these measurements allow regulators and competitors alike to monitor all aspects of Verizon's wholesale performance, including "pre-ordering, ordering, provisioning, maintenance and repair, network performance (interconnection trunks), collocation, billing and operator services." New York Order ¶ 431.

Likewise, Verizon also is subject to performance standards — either retail analogs or benchmarks — against which its performance is measured to ensure that it provides nondiscriminatory treatment to CLECs in Massachusetts. Where a measure tracks performance on a service that Verizon provides both to CLECs and to Verizon’s own retail operations, the performance standards compare Verizon’s performance for CLECs against “parity” — *i.e.*, the performance Verizon provides to itself. *Guerard/Canny Decl.* ¶ 20. These standards ensure that Verizon provides service to CLECs in “substantially the same time and manner” as the service it provides to its own retail operations. *New York Order* ¶¶ 44, 431; *Texas Order* ¶ 44. Where no retail analog is available, the plan measures performance against benchmarks adopted by the New York PSC and Massachusetts DTE. *See Guerard/Canny Decl.* ¶ 20. These benchmarks represent “absolute standards” — rather than minimum performance levels — that provide Verizon with objectives for providing CLECs excellent service. *See id.*; *see also New York Order* ¶ 55 n.107 (recognizing that “states may choose to set their performance benchmarks at levels higher than what is necessary to meet the statutory nondiscrimination standard”).<sup>65</sup>

Moreover, Verizon’s Massachusetts performance data have been validated by an independent review conducted by KPMG. *See Guerard/Canny Decl.* ¶ 132; *Texas Order* ¶ 428 (noting importance of the “reliability of reported data”). And, by order of the DTE, Verizon’s performance data and reporting processes in Massachusetts also will be subject annually to an independent audit, the first of which will begin six months after Verizon receives 271

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<sup>65</sup> In measuring performance, Verizon employs the statistical methodology that the Commission endorsed in its *New York Order*. *See Guerard/Canny Decl.* ¶ 131 & Att. B Exh. 11; *compare New York Order* App. B. This methodology, which was initially proposed by CLECs, *see New York Order* App. B ¶ 6, uses a “modified z-test” to account for random variation in Verizon’s performance on measurements with large sample sizes. *See id.* App. B ¶¶ 1-10. For measurements with smaller sample sizes, Verizon uses alternative tests that, like the modified z-test, were agreed to by “[a]ll parties in the New York Commission collaborative hearings.” *Id.* App. B ¶ 13.

authorization from this Commission. See DTE Performance Plan Order at 32; New York Order ¶ 442 (“We note with approval that the performance data used in . . . New York appears to be subject to regular scrutiny.”).

Second, Verizon is subject to a self-executing Performance Assurance Plan in Massachusetts that closely mirrors the plan it adopted in New York, and which the Commission found provides “strong assurance that the local market will remain open after [Verizon] receives section 271 authorization.” New York Order ¶ 429; see Guerard/Canny Decl. ¶ 134.

Verizon’s Massachusetts Performance Assurance Plan — which the Massachusetts DTE has approved — places \$142 million in annual bill credits at risk. See DTE Performance Plan Order at 24; Guerard/Canny Decl. ¶ 137.<sup>66</sup> This amount is proportionally greater — based on relative number of lines — to the performance incentives approved in New York, which the Commission found provide “a meaningful incentive for [Verizon] to maintain high a level of performance.” New York Order ¶ 435; see also Texas Order ¶ 424 & n.1235 (approving performance plan with total liability “comparable to the [liability] . . . deemed adequate for [Verizon] in New York”).

The Massachusetts Plan also has a similar structure to the New York plan, which the Commission found is both “reasonably designed to detect and sanction poor performance when it occurs,” and “reasonably self-executing.” New York Order ¶¶ 440-441; Guerard/Canny Decl. ¶ 136. The Massachusetts Plan has two parts, which directly parallel the two parts of the New

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<sup>66</sup> Prior to the Massachusetts DTE’s adoption of Verizon’s Performance Assurance Plan, CLECs in Massachusetts received bill credits for sub-standard performance under a program developed by the DTE in a consolidated arbitration. CLECs covered by that program will receive bill credits required under that program or under the Performance Assurance Plan, whichever are higher. See DTE Performance Plan Order at 29-30. In the alternative, CLECs covered by that pre-existing program may opt to continue it in lieu of the Performance Assurance Plan adopted by the DTE. See id. at 30.

York plan. See Guerard/Canny Decl. ¶ 136. The first part of the Massachusetts Plan, which looks to Verizon’s overall wholesale performance, is designed to evaluate performance relating to four “Mode of Entry” categories: resale, unbundled network elements, interconnection, and collocation. Id. ¶ 139. This part puts \$41.2 million in bill credits at risk, subject to doubling if performance falls below a specified threshold. See id. ¶¶ 136, 140. Bill credits for a particular mode of entry are distributed to competing carriers that use that mode in proportion to the volume of service used. See id. ¶ 150.

The second part of the Massachusetts Plan puts an additional \$41.2 million in bill credits at risk. See id. ¶ 136. This part focuses on 12 specific performance measurements that are considered especially critical to CLEC entry. Id. ¶¶ 152-153. These 12 measurements include the same 11 measurements used in the parallel section of the New York plan, plus one additional set of measurements relating to DSL performance. See id. ¶ 153 & n.2. Whereas bill credits under the first part of the Plan do not kick-in unless Verizon’s score for an entire category is sub-standard, see id. ¶ 140, bill credits under the second part of the Plan are due if Verizon’s score for a single measure falls below the established threshold — even if overall performance is outstanding, see id. ¶ 155. Where Verizon misses a critical measure, all competing carriers that received sub-standard performance during the month will receive a bill credit. See id.

Beyond its two main parts, the Massachusetts Plan also contains a “Special Provisions” section that guarantees Verizon’s performance on several specific measures that the Massachusetts DTE has deemed particularly relevant to CLECs’ ability to win and keep customers in the first year following Verizon’s entry into the long distance market. See DTE Performance Plan Order at 5-6; Guerard/Canny Decl. ¶ 156. This part of the Plan — which provides protections that go even beyond those contained in the New York plan — places an

additional \$18.4 million in bill credits at risk. Guerard/Canny Decl. ¶ 137. As with the second part of the Massachusetts Plan concerning critical measures, the bulk of the bill credits due for these special provisions will be issued to affected CLECs. Id. ¶ 159.

In addition to the Performance Assurance Plan, the Massachusetts DTE has ordered Verizon to implement a separate “Change Control Assurance Plan” to provide assurance that improvements to Verizon’s OSS software are implemented smoothly, without disrupting CLECs’ operations. See id. ¶ 166. The Change Control Assurance Plan provides for \$5.28 million in bill credits, over and above the \$142 million at stake in the Performance Assurance Plan. See id. ¶ 137. This amount is, again, proportionally equivalent to the performance incentives approved in New York. See New York Order ¶ 437 n.1334. The Change Control Assurance Plan also uses the same four performance measurements related to Verizon’s Change Management Processes that are used in the New York plan. See Guerard/Canny Decl. ¶ 166; DTE Performance Plan Order at 34.

Finally, even aside from its own business interest in providing superior wholesale service in order to encourage other carriers to use its network, Verizon also is subject to a host of additional safeguards and remedial measures that provide abundant protection against the possibility of anticompetitive conduct. For example, competing carriers still have recourse to the appropriate regulatory and judicial forums to enforce their legal or contractual rights. Likewise, the Commission itself retains the ability to enforce the requirements of section 271 with penalties, up to and including possible revocation of long distance authority under section 271(d)(6)(A). And it already has made clear that it will not hesitate to invoke that authority.

**C. Verizon’s Entry Will Increase Long Distance Competition.**

According to a recent consumer group report, Verizon’s entry into the long distance market in New York will save the consumers who have switched to Verizon’s service up to \$120

*million per year.* See Telecommunications Research & Action Center, A Study of Telephone Competition in New York (Sept. 6, 2000) (Breen Decl. Att. A) (“TRAC Study”); Breen Decl.

¶ 11. Verizon will offer equally attractive rates in Massachusetts, where its entry will undoubtedly have the same pro-competitive effects that it has had in New York.<sup>67</sup>

When Verizon entered the long distance market in January 2000, it introduced simpler and less expensive calling plans than most other carriers, particularly the Big 3 long distance incumbents. See Breen Decl. ¶¶ 5-21. Verizon has several calling plans with both very attractive per-minute rates and no monthly calling plan fees, as well as plans with no minimum charges. See *id.* ¶¶ 5-8. Verizon also offered pre-paid calling plans with some of the lowest rates in the industry. See *id.* ¶ 7. And it offered calling plans with longer off-peak hours than the industry norm at the time (5 p.m. to 8 a.m. instead of 7 p.m. to 7 a.m.). According to TRAC, six months after Verizon’s entry, there was a Verizon long distance calling plan that was less expensive than any AT&T, WorldCom, or Sprint national plan for virtually all long distance customers with typical calling patterns, excepting only callers that make 1,290 minutes or more of long distance calls per month. See *id.* ¶ 12.<sup>68</sup>

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<sup>67</sup> Moreover, Verizon’s real-world experience in New York puts to rest once and for all the claims that the long distance incumbents have rehashed for more than 15 years — based on nothing more than far-fetched theories and hyperbole — that Bell company entry into long distance would have adverse competitive effects. The Commission has already determined that such claims have no place in the review of a section 271 application. See New York Order ¶ 428; see also Texas Order ¶ 419. In the event that the long distance incumbents nevertheless repeat these claims, the Declaration of William Taylor again explains why they are groundless. See Taylor Decl. ¶¶ 29-33.

<sup>68</sup> Ninety-four percent of AT&T’s residential customers in New York would have paid less for their interstate calls under the current rates of one of Verizon’s calling plans than they paid to AT&T in July 1999. See Taylor Decl. ¶ 9. These customers would have saved an average of 35 percent off their AT&T interstate bill by taking Verizon’s plan, and would also have benefited from lower prices for intrastate calls. See *id.*



Verizon's calling plans have been particularly attractive for the low-volume customers that the Big 3 long distance incumbents historically have tried to discard or ignore. See id. ¶ 13.<sup>69</sup> For example, not only does Verizon offer a number of plans with no monthly minimum and no calling plan fee, but it also automatically enrolls all of its customers in a lower-cost calling plan (known as its Timeless plan) if they fail to choose a plan. The Timeless plan is particularly attractive for low-volume users because it offers a flat, low rate of 10 cents per minute with no monthly calling plan fees or minimum usage fees. See id. ¶ 14. In contrast, the long distance incumbents require customers who do not enroll in a plan to pay relatively higher "basic" rates, or they put those customers in default plans with rates considerably higher than their most popular calling plans. See id. ¶¶ 14-19. And, even when the long distance incumbents do offer a flat-rate plan (*i.e.*, with no monthly plan fee or minimum usage fee) that might otherwise be attractive to low-volume users, their rates typically are substantially higher than those offered by Verizon. For example, AT&T's cheapest flat-rate plan is its "AT&T One Rate Basic," which offers a flat rate of 16 cents per minute — *60 percent more expensive* than Verizon's Timeless plan. See id. ¶ 15.<sup>70</sup>

Both in anticipation of and in response to Verizon's entry into the long distance market, the incumbent long distance carriers have been forced to introduce special, lower-priced bundled services offerings to customers in New York. See id. ¶¶ 22-27. For example, WorldCom has rolled out a new "One Company Advantage" plan under which its customers receive unlimited

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<sup>69</sup> See, e.g., Low-Volume Long-Distance Users, Notice of Inquiry, 15 FCC Rcd 6298 (1999).

<sup>70</sup> See AT&T News Release, AT&T Radically Redesigns Basic Residential Calling Plan; Introduces New Family of No-Fee Offers; Lowers Prices for Low-Volume Callers, June 23, 2000. This rate became available for the first time on July 1, 2000, and according to AT&T represented "a decrease of three cents" in its per-minute rate. Id. Thus, for the first six months

local and long distance calls for 7 cents a minute, plus 200 free minutes of long distance calling. See id. ¶ 23. In contrast, its flagship national plan charges nearly 14 cents per minute for in-state long distance. See id. Likewise, AT&T introduced its “AT&T Local One Rate New York” package, which includes reduced rates of 7 cents per minute for interstate calls and 10 cents per minute for in-state calls, and which drops the monthly fee associated with AT&T’s most comparable national plan. See id. ¶ 24. And Sprint likewise launched in New York a bundled local and long distance service plan known as “Sprint Local with 7 cents Long Distance.” See id. ¶ 25. This plan both drops the long distance rate compared to Sprint’s nationwide plan (to 7 cents per minute) and extends the off-peak calling hours when its rates are the lowest. See id.

As this experience makes clear, Verizon’s entry not only has promoted additional local competition, but it also has produced substantial competitive benefits for long distance and bundled services packages. Consumers in Massachusetts are now entitled to the same benefits.

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of Verizon’s long distance entry, AT&T’s cheapest flat-rate offering was *nearly twice as expensive* as Verizon’s comparable plan (19 cents compared to 10 cents).

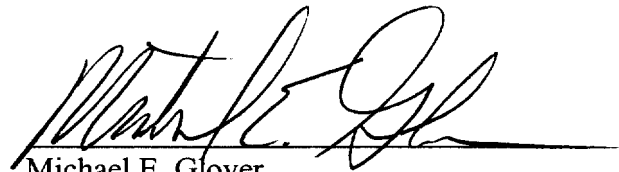
Conclusion

Verizon's Application to provide interLATA service originating in Massachusetts should be granted.

Respectfully submitted,

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A



## Exhibit 1. Verizon's Checklist Compliance Under the 1996 Act

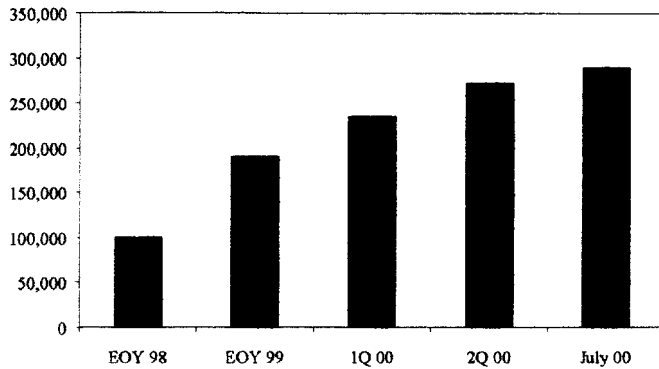
### § 271 Checklist

	⇒	More than 290,000 total trunks More than 1,600 collocation nodes More than 418,000 facilities-based CLEC lines
1. Interconnection		
2. Unbundled Network Elements	⇒	Approximately 12,000 unbundled element platforms
3. Poles, Ducts, Conduits, and Rights of Way	⇒	More than 2.6 million feet of ducts and conduit More than 1 million pole attachments (including poles and conduit provided to cable operators and other utilities in addition to CLECs)
4. Local Loops	⇒	56,000 total unbundled loops, including more than 44,000 standalone loops plus approximately 12,000 loops provided as part of platforms
5. Transport	⇒	More than 1,200 unbundled dedicated local transport facilities Approximately 1,200 miles of dark fiber transport Approximately 12,000 ports using unbundled shared transport
6. Switching	⇒	Approximately 12,000 ports using both unbundled local and unbundled tandem switching
7. 911/E911/DA/Operator Services	⇒	18 CLECs purchasing DA via 1,300 dedicated trunks; 14 CLECs purchasing through shared transport 16 CLECs purchasing OS via 1,300 dedicated trunks; 14 CLECs purchasing through shared transport 28 CLECs purchasing 911/E911 via 509 dedicated trunks
8. White Pages	⇒	192,000 listings provided, including 122,000 residential and 70,000 business
9. Numbering Administration	⇒	More than 1,400 NXX codes
10. Databases/Signaling	⇒	35 CLECs obtaining signaling
11. Number Portability	⇒	Approximately 203,000 numbers ported via LNP
12. Dialing Parity	⇒	Local dialing parity provided throughout Massachusetts
13. Reciprocal Compensation	⇒	Paid to 24 CLECs, 9 CMRS providers, and 7 paging companies
14. Resale	⇒	Approximately 246,000 total resold lines, including 214,000 business and 32,000 residential

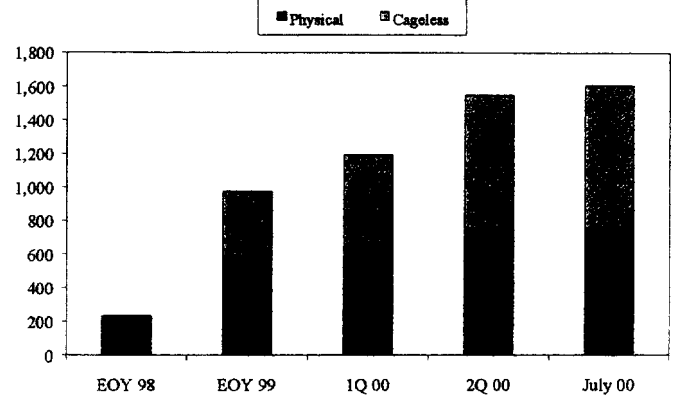


## Exhibit 2. Local Competition in Massachusetts

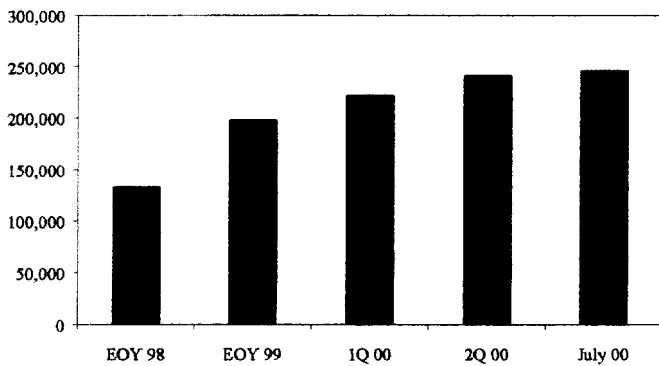
**CLEC Interconnection Trunks**



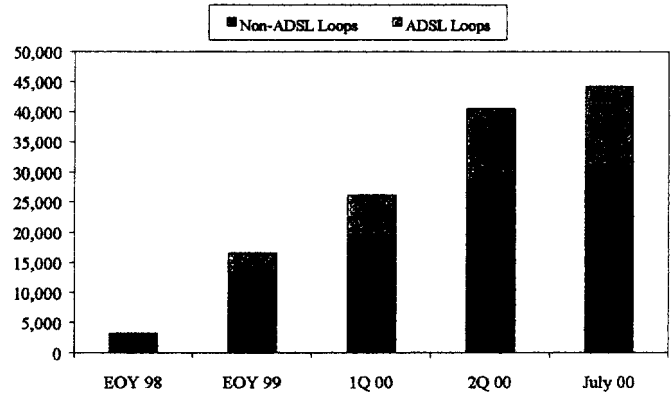
**CLEC Collocation Sites**



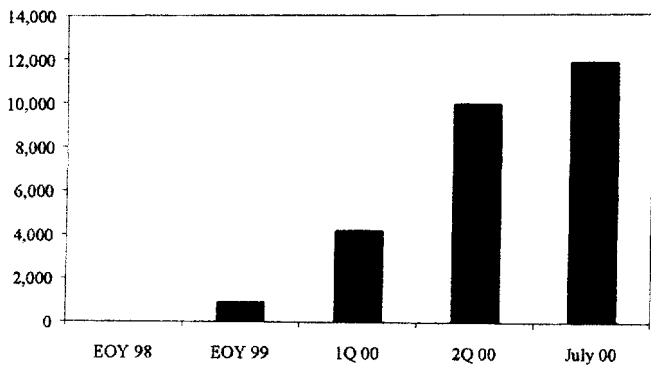
**CLEC Resold Lines**



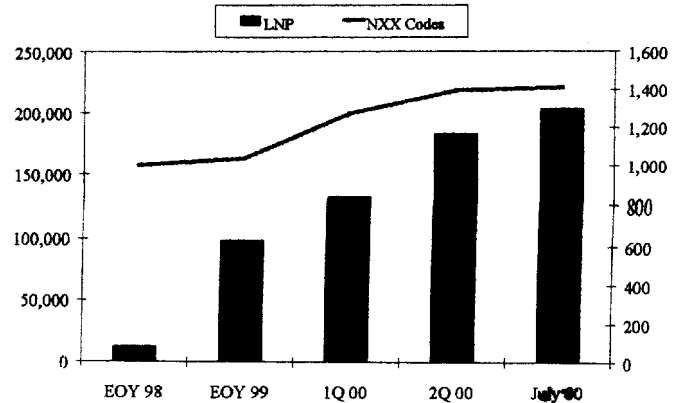
**CLEC Unbundled Loops**



**CLEC Platforms**



**CLEC Ported Numbers and NXX Codes**

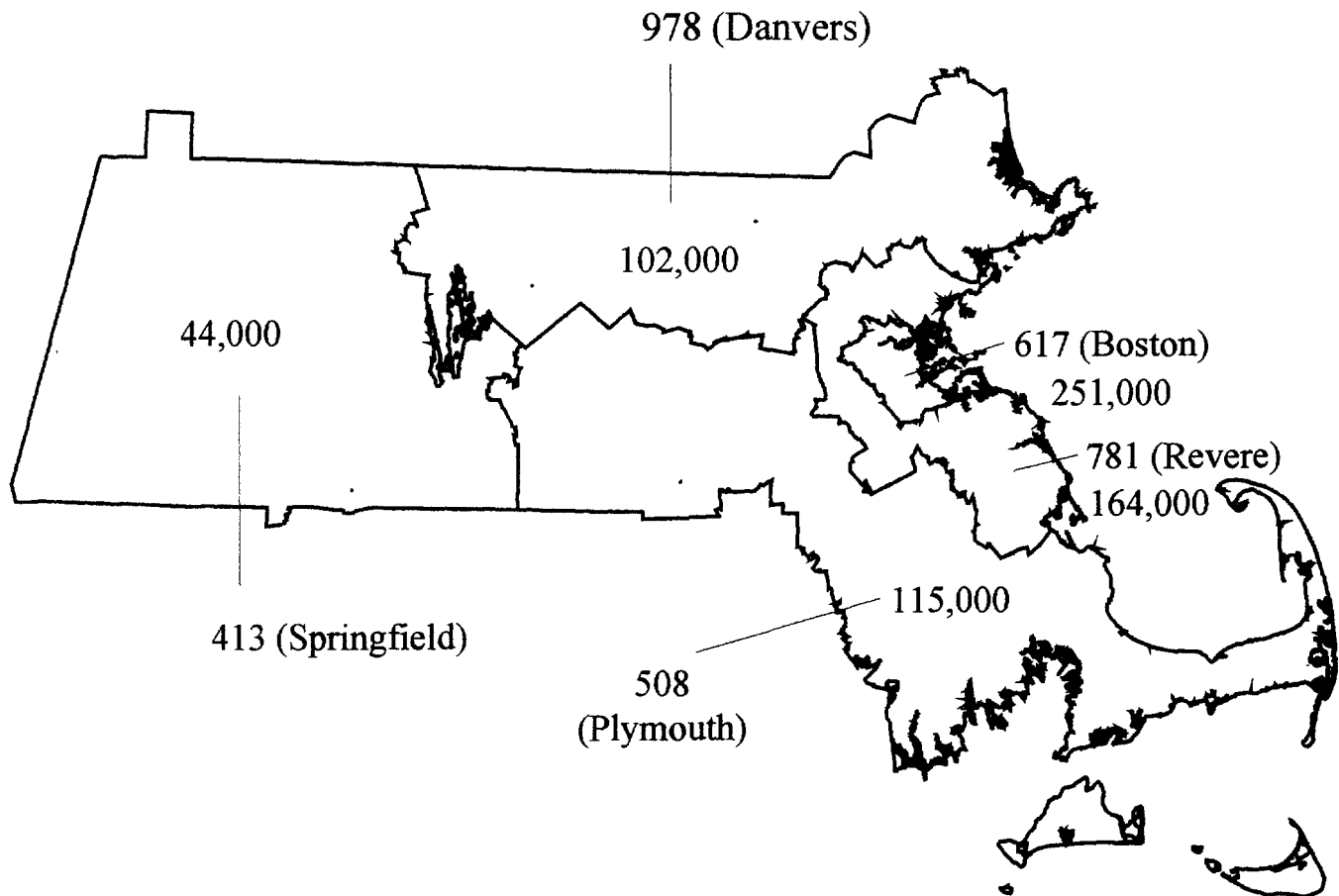






### Exhibit 3. Total CLEC Lines by Area Code

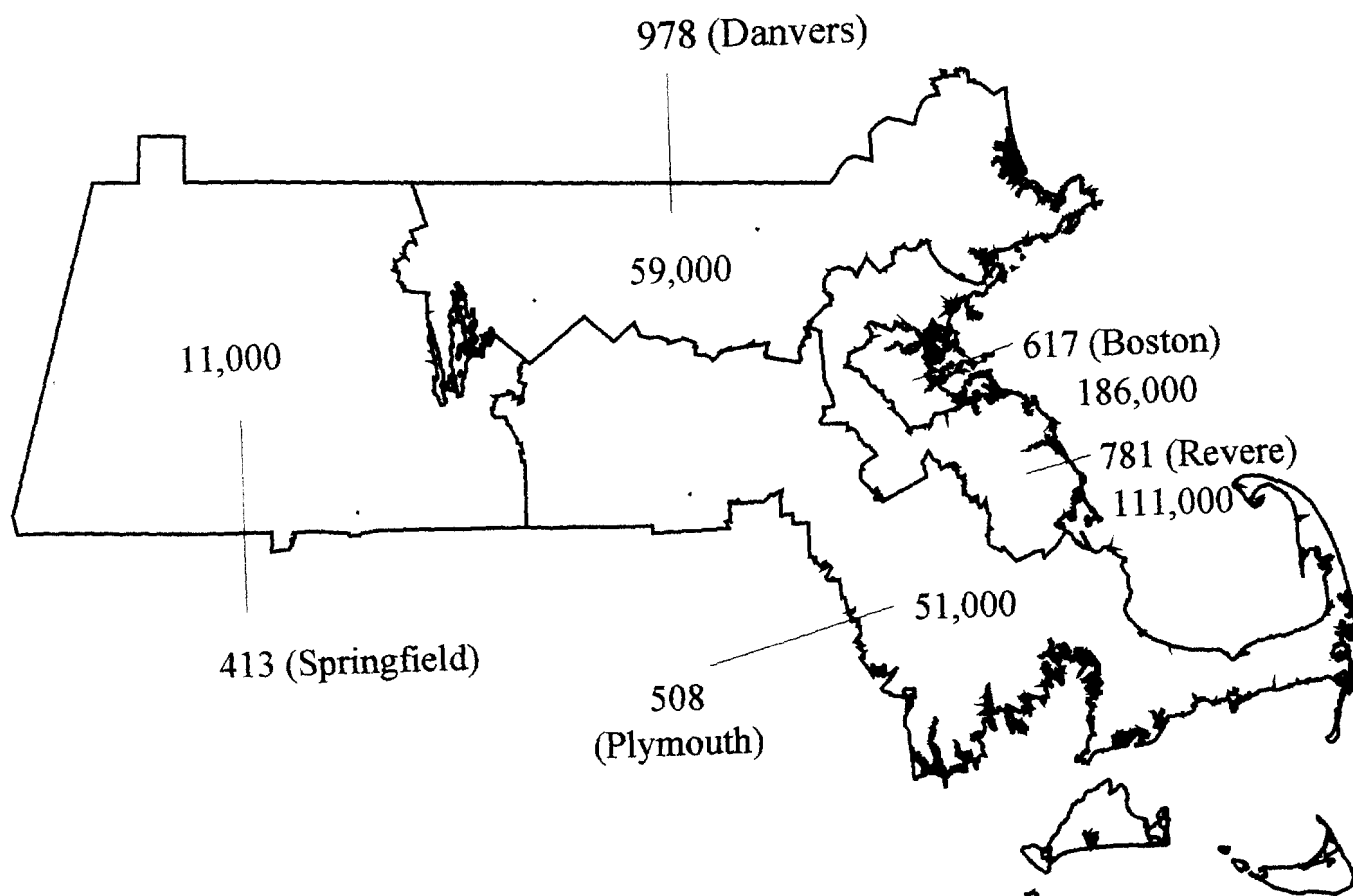
Total: 676,000





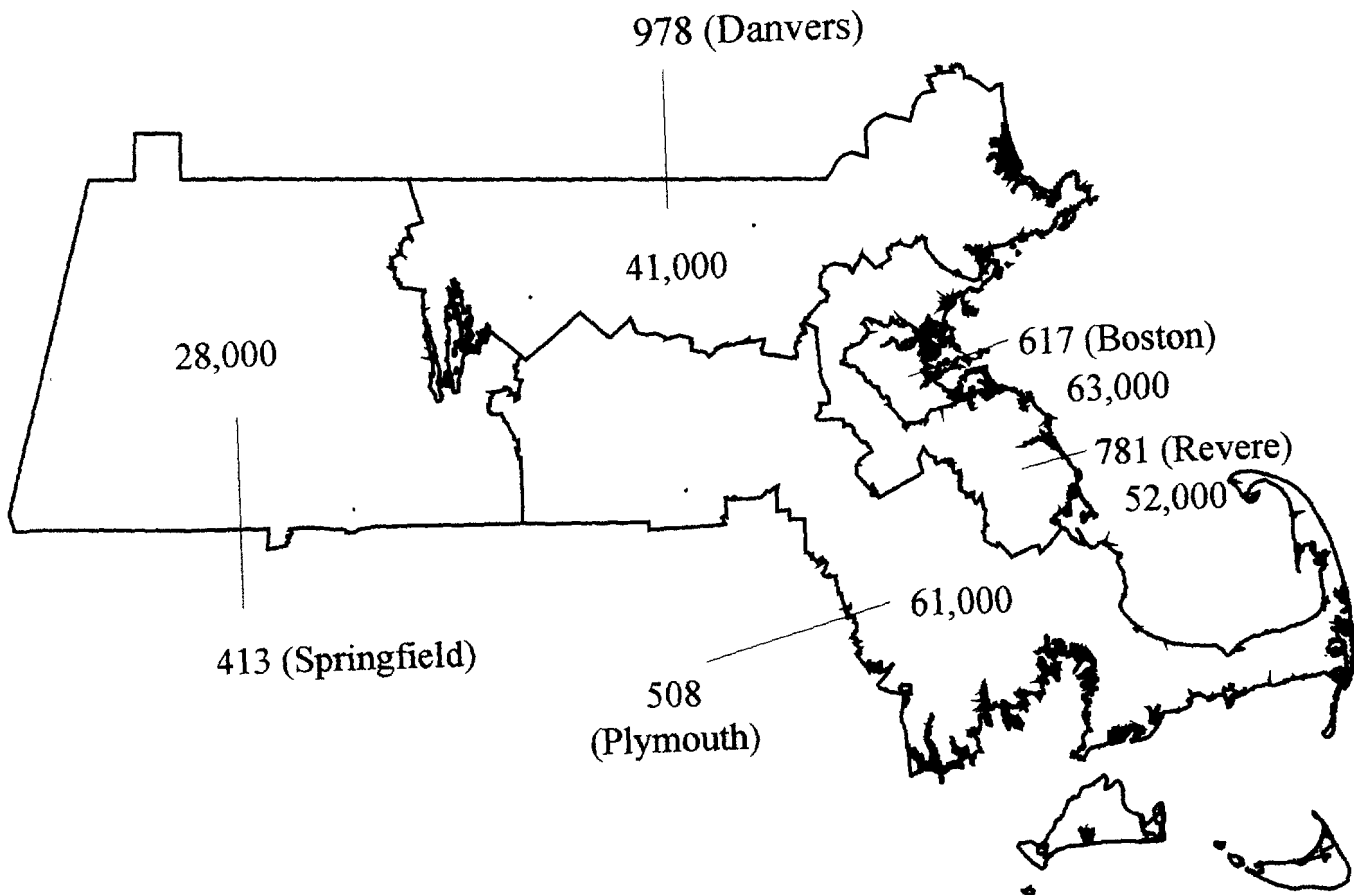
# Exhibit 4. CLEC Facilities-Based Lines by Area Code

Total: 418,000





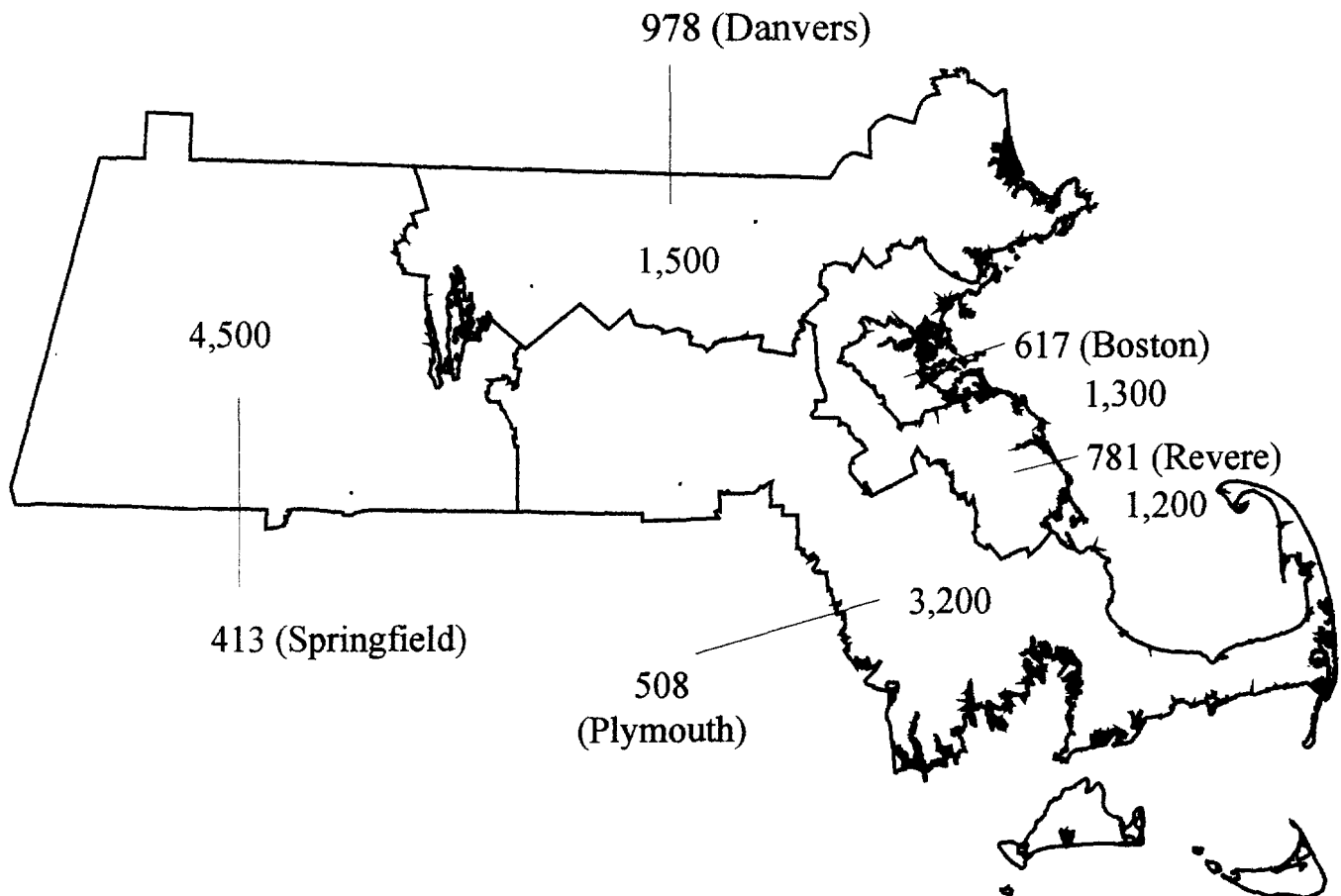
# Exhibit 5. CLEC Resold Lines by Area Code Total: 246,000





# Exhibit 6. CLEC Platforms by Area Code

Total: 12,000





**B**

## Required Statements

Pursuant to the Commission's September 19, 1997 Public Notice entitled Revised Procedures for Bell Operating Company Applications under Section 271 of the Communications Act, 12 FCC Rcd 18590 (1997), Verizon states as follows:

- (a) pages i-iv of this Brief contain a table of contents;
- (b) pages 1-3 of this Brief contain a concise summary of the substantive arguments presented;
- (c) the table of contents of Appendix J contains a statement identifying the agreements that Verizon has entered into pursuant to negotiations and/or arbitrations under section 252, including the dates on which the agreements were approved under section 252; page 7 n.7 of this Brief describes the status of federal-court challenges to the agreements pursuant to section 252(e)(6);
- (d) pages 4-7 of this Brief contain a statement identifying how Verizon meets the requirements of section 271(c)(1), including a list of the specific agreements on which Verizon bases its application;
- (e) pages 66-67 of this Brief contain a statement summarizing the status of the Massachusetts state proceeding examining Verizon's compliance with section 271;
- (f) page 66 n.62 of this Brief contains a statement describing the efforts Bell Atlantic has made to meet with likely objectors to narrow the issues in dispute and the results of those efforts;
- (g) this Brief contains all legal and factual arguments that the three requirements of section 271(d)(3) have been met, and is supported as necessary with selected excerpts from the supporting documentation (with appropriate citations): pages 4-55 address the requirements of section 271(d)(3)(A); pages 55-59 address the requirements of section 271(d)(3)(B); and pages 59-77 address the requirements of section 271(d)(3)(C));
- (h) pages iii-iv of and Attachment C to this Brief contain a list of all appendices (including affidavits) and the location of and subjects covered by each of those appendices has been included;
- (i) inquiries relating to access (subject to the terms of any applicable protective order) to any confidential information submitted by Verizon in this application should be addressed to: Steven McPherson, Verizon, 1320 North Court House Road, 8th Floor, Arlington, Virginia 22201, (703) 974-2808.
- (j) Anti-Drug Abuse Act certifications as required by 47 C.F.R. § 1.2002 are appended hereto;